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10/041,946	01/07/2002	James H. Wolfston JR.	C064	4902

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EXAMINER
OYEBISI, OJO O

ART UNIT	PAPER NUMBER
3694	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/041,946	WOLFSTON, JAMES H.
	Examiner	Art Unit	
	OJO O. OYEBISI	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _09/24/07_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-35_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-35_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   Office Action Summary   Part of Paper No./Mail Date 20071113

DETAILED ACTION

The finality of the previous office action mailed 05/02/07 has been withdrawn. A new final office action rejection is hereby issued. The applicant has recited the limitation "liquidity source" in body of the independent claims. Be that as it may, the examiner has interpreted the liquidity source to mean a credit card. For example, if a payor draws funds from his or her credit card (i.e., liquidity source) to make a purchase at the present moment, the payor does not pay back the the source of funds(i.e., the credit card) until a future date. Thus, the credit card companies and other funds providing companies can use the trusted third party system of Thomas to present bills to the payor (i.e., bills of all the funds provided to the payor for making a purchase at an earlier date).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4.   Claims 1-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Thomas (US PAT: 6,317,745) in view of Treider et al (Treider hereinafter, US PAT:

7,082,412).

Re claims 30-31, and 34. Thomas discloses a method of facilitating a transaction

between a merchant and a payor (see abstract), comprising: verifying by a biller the

validity of a charge of a transaction amount for a transaction between a merchant and a

payor; charging the transaction amount to the payor's account (i.e., the home banking

system computer is operable, upon receipt of the payment order from the payor station,

to generate a universal identifier number uniquely identifying the payee and to transmit

electronically the universal identifier number to the trusted third party via a

communication with the trusted third party system. The trusted third party system

computer also being operable, in response to receipt of the universal identifier number

from the home banking system, to identify the payee as a party to receive payment, to

generate a routing/transit number of the bank of the payee and the payee's account

number from the universal identifier number, and to communicate electronically with the

bank of the payee to facilitate transfer of the amount owed to the payee's account to the

bank of the payee, see abstract), the liquidity source being unaffiliated with the biller;

collecting the transaction amount from the payor; and transferring an amount

corresponding to the transaction amount to repay the liquidity source (see col.6 lines

22-55). Thomas does not explicitly disclose thereby triggering payment of an amount

corresponding to the transaction amount from a liquidity source to the merchant.

However, Treider discloses thereby triggering payment of an amount corresponding to

the transaction amount from a liquidity source to the merchant (i.e., Treider discloses a

credit card payment to the merchant, see fig.3. The examiner has interpreted the Credit

card to be the liquidity source). Thus it would have been obvious to one of ordinary skill

in the art to combine the teachings of Thomas and Treider so that credit card

companies/funds providing companies can use the trusted third party system of Thomas

to present bills to the payor (i.e., bills of all the credit card funds provided to the payor

for making a purchase in Treider (fig.3)), and also to compensate the third party for the

services they provide.

Re claims 1-4, 32 and 35. Thomas discloses a method of financing transactions

between payors and merchants (see abstract), the payors charging utility or other

billing accounts serviced by third parties in order to complete the transactions with the

merchants proceeds of the transactions being initially provided to the merchants by one

or more participating funds owned and managed separately from the third parties and

unaffiliated with those third parties (i.e., credit card), and the transaction proceeds being

later restored to the funds by the third parties (see abstract, also see col.5 lines 35-65),

the method comprising; charging by a payor to a third party billing account a transaction

amount charged by a merchant; collecting by the third party the transaction amount

from the payor (see col.5 lines 35-65); and transferring funds corresponding to the

transaction amount from the third party to the fund (see abstract, see col.5 lines 15-65).

Thomas does not explicitly disclose transferring from one of the participating funds tothe

merchant the transaction amount minus a service fee; compensating the third party (i.e.,

guaranteeing financial institution) and the fund from the transaction amount, whereby

the merchant has use of the major portion of the transaction amount shortly after

charging by the payor, the third party receives compensation for its service, and the

fund receives compensation that provides a return on investment to the fund to the

benefit of its investors. However, Treider discloses transferring from one of the

participating funds to the merchant the transaction amount minus a service fee;

compensating the third party and the fund from the transaction amount, whereby the

merchant has use of the major portion of the transaction amount shortly after charging

by the payor, the third party receives compensation for its service, and the fund receives

compensation that provides a return on investment to the fund to the benefit of its

investors (i.e., referring to FIG. 1, the buyer makes a purchase from the vendor with a

guaranteed credit line as established in the profile database 10. The purchase order is

then being forwarded to the vendor for fulfillment 12. Then the receivable is re-assigned

to the guaranteeing financial institution for a guarantee of the receivables 14, the

purchase order is returned to the buyer for the buyer's records 16. The vendor ships

the order with a copy of the invoice and terms back to the buyer 18, for example, net 30,

net 60, or net 90. Then the vendor sends shipment confirmation and a copy of the

invoice to the platform for the present invention, entitled "ProfitScape" (hereinafter

referred to as the platform), on an e-commerce web site 20. Next the buyer makes

payment to the platform based upon the vendor terms 22, and the platform forwards

payment to the vendor 24, minus a negotiated percentage. The platform profile

database maintains credit records and transfers all monies from the buyer to the vendor

minus a negotiated percentage or transaction fee, for example 8 12% of the transaction.

The guaranteeing financial institution will review the accounts periodically, for example

every 90 days, for buyer credit line limits. Also periodically, for example every 30 days,

the platform reconciles with the guaranteeing financial institution for a percentage of all

gross revenue of the platform's guaranteed electronic commerce transactions, see col.9

lines 35-65). Thus, it would have been obvious to one of ordinary skill in the art to

combine Thomas and Treider in order to compensate the third party for the services

they provide.

Re claims 6, 22. Thomas discloses a method of facilitating payment between a payor

and a merchant (see abstract), comprising: undertaking by a payor of an obligation to

pay a merchant a transaction amount; billing the payor by a third party biller, the third

party biller being an entity other than the liquidity source; collecting the transaction

amount from the payor by the third party biller (see col.4 lines 25-65); and providing by

the third party biller funds corresponding to the transaction amount to the liquidity

source (see abstract), the liquidity source being repaid by payor funds collected by the

third party biller (see col.6 lines 22-55). Thomas does not explicitly disclose providing

funds corresponding to the transaction amount to the merchant from a liquidity source

(i.e., credit card). However, Treider discloses providing funds corresponding to the

transaction amount to the merchant from a liquidity source (i.e., Treider discloses a

credit card payment to the merchant, see fig.3. The examiner has interpreted the Credit

card to be the liquidity source). Thus it would have been obvious to one of ordinary skill

in the art to combine the teachings of Thomas and Treider so that credit card

companies/funds providing companies can use the trusted third party system of Thomas

to present bills to the payor (i.e., bills of all the credit card funds provided to the payor for making a purchase in Treider (fig.3)), and also to compensate the third party for the services they provide.

Re claim 5. Thomas further discloses a computer readable media having thereon instructions for executing computer instructions (see fig.2B).

Re claims 7-9, 25. Thomas does not explicitly disclose the method in which providing funds corresponding to the transaction amount to the merchant from a liquidity source includes providing funds equal to the transaction amount minus a service fee, a first portion of the service fee being used to compensate the liquidity source and a second portion of the service fee being used to compensate the biller. However, Treider makes this disclosure (i.e., referring to FIG. 1, the buyer makes a purchase from the vendor with a guaranteed credit line as established in the profile database 10. The purchase order is then being forwarded to the vendor for fulfillment 12. Then the receivable is re-assigned to the guaranteeing financial institution for a guarantee of the receivables 14, the purchase order is returned to the buyer for the buyer's records 16. The vendor ships the order with a copy of the invoice and terms back to the buyer 18, for example, net 30, net 60, or net 90. Then the vendor sends shipment confirmation and a copy of the invoice to the platform for the present invention, entitled "ProfitScape" (hereinafter referred to as the platform), on an e-commerce web site 20. Next the buyer makes payment to the platform based upon the vendor terms 22, and the platform forwards payment to the vendor 24, minus a negotiated percentage. The platform profile database maintains credit records and transfers all monies from the buyer to the vendor

minus a negotiated percentage or transaction fee, for example 8 12% of the transaction.

The guaranteeing financial institution will review the accounts periodically, for example

every 90 days, for buyer credit line limits. Also periodically, for example every 30 days,

the platform reconciles with the guaranteeing financial institution for a percentage of all

gross revenue of the platform's guaranteed electronic commerce transactions, see col.9

lines 35-65). Thus, it would have been obvious to one of ordinary skill in the art to

combine Thomas and Treider in order to compensate the third party for the services

they provide.

Re claim 10. Thomas discloses the method in which billing the payor by a third party

biller includes billing the payor by a third party that offers goods or services and that

maintains a billing system for collecting charges in connection with its own goods or

services (see abstract).

Re claims 11-12, 26. Thomas discloses a system of providing liquidity to merchants

and facilitating payments by payors (see abstract), comprising: a third party biller

different from the source of funds for billing the payor (see col.4 lines 25-60), collecting

funds from the payor, and reimbursing the source of funds (see col.5 lines 35-60).

Thomas does not explicitly disclose a source of funds (i.e., credit card) for paying the

merchant when a transaction is undertaken. However, Treider discloses a source of

funds (i.e., credit card) for paying the merchant when a transaction is undertaken (i.e.,

Treider discloses a credit card payment to the merchant, see fig.3. The examiner has

interpreted the Credit card to be the liquidity source). Thus it would have been obvious

to one of ordinary skill in the art to combine the teachings of Thomas and Treider so that

credit card companies/funds providing companies can use the trusted third party system

of Thomas to present bills to the payor (i.e., bills of all the credit card funds provided to

the payor for making a purchase in Treider (fig.3)), and also to compensate the third

party for the services they provide.

Re claim 13. Thomas does not explicitly disclose the system in which the source of

funds is other than a traditional bank. However, Treider discloses disclose the system in

which the source of funds is other than a traditional bank (i.e., guaranteeing financial

source, see abstract). Thus it would have been obvious to combine Thomas and Treider

to provider the buyer/payor a choice of different financial sources.

Re claims 14-17. Thomas discloses a method of financing transactions between

merchants and payors, comprising: accepting money to be pooled in a fund; in

response to a transaction between a merchant and a payor (see abstract), a transaction

amount being charged to the payor's account at a third party who is unrelated to the

party accepting the money to be pooled in the fund (see abstract, also see col.5 lines

35-55); transferring the transaction amount ; and receiving funds corresponding to the

transaction amount collected from the payor by the unrelated third party (see col.6 lines

23-40). Thomas does not explicitly disclose transferring the transaction amount less a

service fee from the pooled fund to the merchant. However, Treider makes this

disclosure (i.e., referring to FIG. 1, the buyer makes a purchase from the vendor with a

guaranteed credit line as established in the profile database 10. The purchase order is

then being forwarded to the vendor for fulfillment 12. Then the receivable is re-assigned

to the guaranteeing financial institution for a guarantee of the receivables 14, the

purchase order is returned to the buyer for the buyer's records 16. The vendor ships

the order with a copy of the invoice and terms back to the buyer 18, for example, net 30,

net 60, or net 90. Then the vendor sends shipment confirmation and a copy of the

invoice to the platform for the present invention, entitled "ProfitScape" (hereinafter

referred to as the platform), on an e-commerce web site 20. Next the buyer makes

payment to the platform based upon the vendor terms 22, and the platform forwards

payment to the vendor 24, minus a negotiated percentage. The platform profile

database maintains credit records and transfers all monies from the buyer to the vendor

minus a negotiated percentage or transaction fee, for example 8 12% of the transaction.

The guaranteeing financial institution will review the accounts periodically, for example

every 90 days, for buyer credit line limits. Also periodically, for example every 30 days,

the platform reconciles with the guaranteeing financial institution for a percentage of all

gross revenue of the platform's guaranteed electronic commerce transactions, see col.9

lines 35-65). Thus, it would have been obvious to one of ordinary skill in the art to

. combine Thomas and Treider in order to compensate the third party for the services

they provide.

Re claims 18, 33. Thomas discloses a method of brokering transactions between

payors and merchants (see abstract), comprising: presenting to a payor, in response to

a transaction between the payor and a merchant, a request to select an account at a

third party biller to which to charge a transaction amount (see col.4 lines 25-65);

requesting authorization of the charge from the selected third party biller; triggering the

selected third party biller to bill the payor; the liquidity source being repaid by the third

party biller (see col.6 lines 22-55). Thomas does not explicitly disclose requesting a

liquidity source (i.e., credit card) that is not the same entity as the third party biller to

transfer funds corresponding to the transaction amount to the merchant. However,

Treider discloses requesting a liquidity source (i.e., credit card) that is not the same

entity as the third party biller to transfer funds corresponding to the transaction amount

to the merchant (i.e., Treider discloses a credit card payment to the merchant, see fig.3.

The examiner has interpreted the Credit card to be the liquidity source). Thus it would

have been obvious to one of ordinary skill in the art to combine the teachings of Thomas

and Treider so that credit card companies/funds providing companies can use the

trusted third party system of Thomas to present bills to the payor (i.e., bills of all the

credit card funds provided to the payor for making a purchase in Treider (fig.3)), and

also to compensate the third party for the services they provide.

Re claim 19. Thomas does not explicitly disclose the method further comprising

collecting a broker fee from the liquidity source or from the third party biller. However,

Treider makes this disclosure (i.e., The platform profile database maintains credit

records and transfers all monies from the buyer to the vendor minus a negotiated

percentage or transaction fee, for example 8 12% of the transaction. The guaranteeing

financial institution will review the accounts periodically, for example every 90 days, for

buyer credit line limits. Also periodically, for example every 30 days, the platform

reconciles with the guaranteeing financial institution for a percentage of all gross

revenue of the platform's guaranteed electronic commerce transactions, see col.9 lines

35-65). Thus, it would have been obvious to one of ordinary skill in the art to combine

Thomas and Treider in order to compensate the third party for the services they provide.

Re claims 20, 24. Thomas does not explicitly disclose the method in which requesting a

liquidity source to transfer funds includes selecting one of multiple liquidity sources.

However, Treider makes this disclosure (i.e., form of payment (credit card and

ProfitScape, see fig.3). Thus it would have been obvious to combine Thomas and

Treider to provider the users with different payment options or a choice of different

funding sources.

Re claims 21, 23. Thomas does not explicitly disclose the method in which requesting a

liquidity source to transfer funds corresponding to the transaction fee to the merchant

includes requesting the liquidity source to transfer funds equal to the transaction amount

minus a service fee, a portion of the service fee being retained by the liquidity fund.

However, Treider makes this disclosure (i.e, Next the buyer makes payment to the

platform based upon the vendor terms 22, and the platform forwards payment to the

vendor 24, minus a negotiated percentage. The platform profile database maintains

credit records and transfers all monies from the buyer to the vendor minus a negotiated

percentage or transaction fee, for example 8 12% of the transaction. The guaranteeing

financial institution will review the accounts periodically, for example every 90 days, for

buyer credit line limits. Also periodically, for example every 30 days, the platform

reconciles with the guaranteeing financial institution for a percentage of all gross

revenue of the platform's guaranteed electronic commerce transactions, see col.9 lines

35-65). Thus, it would have been obvious to one of ordinary skill in the art to combine

Thomas and Treider in order to compensate the third party for the services they provide.

Re claim 27. Thomas discloses the method in which participating as a merchant in a transaction in which a payor agrees to pay the merchant a transaction amount to be charged to a billing account at a third party includes participating as a merchant in a transaction in which a payor agrees to pay the merchant a transaction amount to be charged to a billing account at a third party that offers goods or services and in which a subject matter of the transaction is not the goods or services offered by the third party (see col.5 lines 15-55, also see the abstract).

Re claims 28-29. Thomas discloses the method in which participating as a merchant in a transaction in which a payor agrees to pay the merchant a transaction amount to be charged to a billing account at a third party includes participating as a merchant in a transaction in which a payor agrees to pay the merchant a transaction amount to be charged to a billing account (see col.4 lines 25-60, also see abstract, note the location of the billing account i.e., utility company, a department store, or an oil or gasoline company is a descriptive non-functional element which does not carry any patentable weight).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJO O. OYEBISI whose telephone number is (571) 272-8298. The examiner can normally be reached on 8:30A.M-5:30P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JAMES TRAMMELL can be reached on (571)272-6712. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

O.O

ELLA COLBERT
/PRIMARY EXAMINER